

Applicant: Hisashi Nagata, et al.
U.S.S.N.: 10/024,065
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REMARKS

Applicant(s) appreciate the Examiner's thorough examination of the subject application and request reconsideration of the subject application based on the foregoing amendments and the following remarks.

Claims 1-9 and 10-39¹ are pending in the subject application. Claim 9 was previously canceled.

Claims 1, 3, 7, 8, 10-13, 16-22, 24, 27, 28, 30, 35 and 38 stand rejected under 35 U.S.C. §102 and/or 35 U.S.C. §103.

Claims 2, 4-6, 14, 15, 23, 25, 26, 29, 31, 32, 34, 36, 37 and 39 were objected to as depending from a rejected base claim, however, the Examiner indicated that the claims would be allowable if appropriately re-written in independent form.

Claims 1, 10-13, 20-21, 27-28, 30 and 35 were canceled in the instant amendment without prejudice to prosecuting them in a continuing application.

Claims 2, 4, 6, 14, 15, 23, 25, 29, 31-32, 34, 36-37 and 39 were re-written in independent form as suggested by the Examiner.

Claims 3, 7-8, 16-19, 22, 33 and 38 were amended to reflect dependency changes resulting from claim cancellation and/or claim amendments.

The amendments to the claims are supported by the originally filed disclosure.

¹ While the Office Action indicates that claims 1-39 are pending, claim 9 was previously canceled. Thus, the claims pending should be claims 1-8 and 10-39.

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35 U.S.C. §102 REJECTIONS

The Examiner rejected claims 1, 8, 10-13, 17, 19-21, 24, 28, 33 and 38 under 35 U.S.C. §102(e) as being anticipated by Ino et al. [USP 6,424,328; "Ino"] for the reasons provided on pages 2-13 of the above-referenced Office Action. Applicants respectfully traverse as discussed below. Because claims 1, 10-13, 20-21 and 28 were canceled in the foregoing amendment, the within rejection as to these claims is not addressed further herein.

Claims 8 and 24 were amended so each now depends from claim 2. Claims 17 and 19 were amended so each now depends from claim 14. Claim 33 was amended so this claim now depends from claim 31. Claim 38 was amended so this claim now depends from claim 36. As indicated herein, each of claims 2, 14, 31 and 36 are considered to be allowable. Thus, at least because of the dependency from a base claim that is considered allowable each of claims 8, 17, 19, 24, 33 and 38 are considered to be allowable. This shall not be construed as an admission that any of claims 8, 17, 19, 24, 33 and 38 are not separately patentable over Ino.

It is respectfully submitted that for the foregoing reasons, claims 8, 17, 19, 24, 33 and 38 are patentable over the cited reference and satisfy the requirements of 35 U.S.C. §102(e). As such, these claims are allowable.

35 U.S.C. §103 REJECTIONS

Claims 3, 7, 16, 18, 22, 27, 30 and 35 stand rejected under 35 U.S.C. §103 as being unpatentable over Ino et al. [USP 6,424,328; "Ino"] for the reasons provided on pages 13-14 of the above-referenced Office Action. Applicants respectfully traverse as discussed below.

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Because claims 37, 30 and 35 were canceled in the foregoing amendment, the within rejection as to these claims is not addressed further herein.

Claims 3, 7 and 22 were amended so each now depends from claim 2. Claims 16 and 18 were amended so each now depends from claim 14. As indicated herein, each of claims 2 and 14 are considered to be allowable. Thus, at least because of the dependency from a base claim that is considered allowable each of claims 3, 7, 16, 18 and 22 are considered to be allowable. This shall not be construed as an admission that any of claims 3, 7, 16, 18 and 22 are not separately patentable over *ho*.

It is respectfully submitted that for the foregoing reasons, claims 3, 7, 16, 18 and 22 are patentable over the cited reference(s) and thus satisfy the requirements of 35 U.S.C. §103. As such, these claims are allowable.

CLAIMS 2, 4-6, 14, 15, 23, 25, 26, 29, 31, 32, 34, 36, 37, & 39

In the above-referenced Office Action, claims 2, 4-6, 14, 15, 23, 25, 26, 29, 31, 32, 34, 36, 37, and 39 were objected to as being dependent upon a rejected base claim. It also was provided in the above-referenced Office Action, however, that these claims would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claim(s).

Claims 2, 4, 6, 14, 15, 23, 25, 29, 31, 32, 34, 36, 37 and 39 were re-written in the foregoing amendment so as to be in independent form and to include all the limitations of the

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base claim there being no intervening claim(s). Accordingly, claims 2, 4, 6, 14, 15, 23, 25, 29, 31, 32, 34, 36, 37 and 39 are considered to be in allowable form.

As to claim 5 this claim was not re-written in independent form as suggested by the Examiner as it depends from claim 4, an allowable claim. Applicants however, reserve the right to later amend the subject application so as to present claim 5 in independent form or to add an independent claim that contains the limitations of this claim.


It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested.

Because the total number of claims and/or the total number of independent claims post amendment now exceed the highest number previously paid for, a check is enclosed herewith for the required additional fees. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

Respectfully submitted,
Edwards Angell Palmer & Dodge, LLP

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By:


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